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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION**

JOHN DOE, an individual,

Plaintiff,

vs.

CITY OF TEMECULA, an incorporated  
California Municipality; and DOES 1 to  
10, inclusive,

Defendants.

Case No.: 5:17-cv-407

**VERIFIED COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

**[42 U.S.C. Section 1983]**

**INTRODUCTION**

1. This civil rights action challenges provisions of Chapter 9.60 of the Temecula Municipal Code that constitute residency restrictions for registered sex offenders (the “Temecula Residency Restrictions” or “the Ordinance”) because, on their face and as applied, the Temecula Residency Restrictions are preempted by California state law, and violate the Fourteenth Amendment to the United States Constitution, the Ex Post Facto Clause of the United States Constitution, and are unconstitutionally vague and overbroad as more specifically alleged herein.

**JURISDICTION AND VENUE**

2. This court has jurisdiction over this action pursuant to 28 U.S.C. Sections 1331, 1367(a), 1343(a), and 2201, as well as 42 U.S.C. Section 1983.

3. Under 28 U.S.C. Section 1391(b), venue is proper in this Federal district because Defendant City of Temecula is a municipality in this district and the events giving rise to the claims have occurred and continue to occur in this district.

**PARTIES**

4. Plaintiff John Doe (“Plaintiff”) is and at all times material to this action was a resident of the State of California as well as a citizen of the United States. Plaintiff is required to register as a sex offender pursuant to California Penal Code Section 290, *et seq.* (hereinafter, a “Registrant”). Plaintiff resides in Riverside County and is therefore in geographic proximity to the City of Temecula. Plaintiff is in search of a permanent residence, and would establish a residence in the City, but is prohibited from spending even one night in the City by the Ordinance, including but not limited to, its penalties which include incarceration and/or fines.

5. The City of Temecula (“Temecula” or “Defendant”) is an incorporated municipality located in Riverside County, California. Temecula adopted the Ordinances at issue here through the five-member Temecula City Council and enforces the Ordinance through the Temecula Police Department.

6. The true names and capacities of Defendants sued as Does 1 through 10 are unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Plaintiff will seek leave to amend this Complaint, if necessary, to reflect the true names once they have been ascertained.

7. Temecula and Does 1 through 10 are collectively referred to herein as “Defendants.”

## **FACTS**

8. The Temecula City Council adopted Ordinance No. 09-02 on February 24, 2009, which was subsequently codified as Temecula Municipal Code, Title 9, Chapter 9.60, Sections 9.60.010 through 9.60.050, entitled “Temecula Sex Offender Ordinance” (hereinafter, the “Ordinance”). As originally enacted in 2009, the Ordinance contains provisions that regulate areas of the City in which Registrants may reside (“Residency Restrictions”).

### **The Ordinance’s Residential Exclusion Zones**

9. As enacted and currently enforced, the Ordinance prohibits “a Sex Offender” from residing within a “two thousand (2,000) foot radius of any child day care center, park, or school.” Ordinance § 9.60.030 (hereinafter, a “Residential Exclusion Zone”).

10. The Ordinance defines a “Sex Offender” as “any person for whom registration is required pursuant to Section 290 of the California Penal Code.” Ordinance § 9.60.020. The definition of “Sex Offender” in the Ordinance includes all Registrants, even those whose convictions did not involve a minor. The definition of “Sex Offender” in the Ordinance also includes Registrants who are not currently serving terms of parole or probation.

11. The Ordinance defines “child day care center” as “a licensed facility that provides non-medical care on a less than twenty-four (24) hour basis to children in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual.” Ordinance § 9.60.020. Upon information and belief, and based upon publicly available records, there are at least sixteen (16) “child day care centers” within Temecula.

12. The Ordinance defines “Park” as “an open space where children regularly gather.” Ordinance § 9.60.020. Upon information and belief, and based upon publicly available records, there are thirty-nine (39) public parks within Temecula, and

1 potentially dozens of other “open space” parcels or property within Temecula that fit the  
2 definition of “Park.”

3 13. The Ordinance defines “School” as “the buildings and grounds of any  
4 public or private school used for the education of children in kindergarten or in grades 1  
5 through 12 inclusive.” Ordinance§ 9.60.020. Upon information and belief, and based  
6 upon publicly available records, there are at least forty-four (44) “Schools” within  
7 Temecula.

8 **Temecula’s Residential Exclusion Zones Cover Virtually All Residential Property**  
9 **Within the City**

10 14. On information and belief, the Temecula Ordinance is more expansive than  
11 other sex offender residency restrictions imposed by similar municipalities in this  
12 jurisdiction. That is, the City of Temecula comprises 30.167 square miles and has a  
13 density level of 3,300 per square mile. The impact of the Ordinance’s Residential  
14 Exclusion Zones upon available housing in Temecula is therefore amplified and more  
15 expansive relative to those of cities of comparable size.

16 15. On information and belief, the Temecula Residency Restrictions exclude  
17 Registrants from virtually all affordable housing in the City of Temecula, including  
18 affordable multifamily housing. On information and belief, the median gross rent in the  
19 City of Temecula is over \$1,600 per month.<sup>1</sup> This is significant because, in the case *In*  
20 *re Taylor*, the California Supreme Court held that, when assessing the impact of  
21 residency restrictions, the appropriate measure is not all available housing, but the  
22 availability of affordable housing of the type that Registrants are likely to rent:  
23 multifamily units for \$850 per month or less. *In re Taylor*, 60 Cal. 4th 1019, 1029  
24 (2015). Specifically, the Supreme Court treated single-family residences as irrelevant to  
25 its analysis because Registrants are “unlikely candidates to rent single-family homes.”  
26

27 <sup>1</sup> <http://www.city-data.com/city/Temecula-California.html>  
28

60 Cal 4th at 1029. The Supreme Court also ignored housing that could not be obtained for less than \$850 per month, which is representative of the SDI and SSDI benefits available to registrants. 60 Cal 4th at 1030. Therefore, because the Temecula Residency Restrictions exclude Registrants from virtually all multifamily parcels in Temecula, the Temecula Residency Restrictions banish Registrants from virtually all affordable housing in Temecula.

16. The penalties for any violation of the Ordinance are significant and include a misdemeanor “punishable by a fine of not more than one thousand dollars (\$1,000.00), by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment.” Ordinance § 9.60.050.

17. By definition, the Temecula Residency Restrictions do not apply to anyone who is not required to register as a sex offender pursuant to Penal Code section 290. The Temecula Residency Restrictions also do not apply to Registrants who “established the residency prior to the effective date” of the Ordinance [*i.e.*, March 2009], or who established a residence “prior to the initial operation of the child day care center, park, or school.” Ordinance § 9.60.040. Accordingly, Registrants who have maintained the same residence since March 2009 are not subject to the Ordinance; however, such Registrants are prohibited from moving their original residence to a different residence within Temecula.

**Temecula’s Residency Restrictions are Irrational and Injurious to Public Safety as Confirmed by Case Law and Studies by Subject Matter Experts**

18. Because Temecula continues to enforce the Temecula Residency Restrictions in a manner that prohibits Plaintiff and all Registrants who currently reside outside of Temecula from acquiring a residence in Temecula, the Temecula Residency Restrictions accomplish the unconstitutional goal of banishment, do not serve any legitimate government purpose, and are not appropriately tailored or related to any professed or lawful purpose.

1           19. Because Temecula continues to enforce the Temecula Residency  
2 Restrictions in a manner that prohibits Plaintiff and all Registrants who currently reside  
3 outside of Temecula from acquiring a temporary residence in Temecula for even one  
4 night, the Temecula Residency Restrictions accomplish the unconstitutional goal of  
5 banishment, do not serve any legitimate government purpose, and are not appropriately  
6 tailored or related to any professed or lawful purpose.

7           20. Because Temecula continues to enforce the Temecula Residency  
8 Restrictions in a manner that prohibits Registrants who already reside within Temecula  
9 from moving to a new residence within that city, the Temecula Residency Restrictions  
10 accomplish the unconstitutional goal of banishment, do not serve any legitimate  
11 government purpose, and are not appropriately tailored or related to any professed or  
12 lawful purpose.

13           21. California's Proposition 83, also known as "Jessica's Law" (effective  
14 November 6, 2006), as codified in subsections (b) and (c) of California Penal Code  
15 section 3003.5, authorizes local governments to enact ordinances that further restrict the  
16 residency of Registrants who are subject to the residency restrictions of Penal Code  
17 section 3003.5(a). However, because Penal Code section 3003.5(a) applies only to  
18 parolees, Jessica's Law does not authorize local governments to impose any residency  
19 restrictions on non-parolees, including individuals who are currently serving terms of  
20 probation. *People v. Lynch*, 2 Cal. App. 5th 524 (2016). Moreover, to the extent that  
21 local governments may impose residency restrictions on parolees, the California  
22 Supreme Court has ruled that such restrictions may not be imposed upon Registrants in a  
23 manner that deprives them of their constitutional rights and liberty interests, including  
24 their right to be free from arbitrary, oppressive, and unreasonable laws that bear no  
25 rational relationship to the state's goal of protecting residents. *In re Taylor*, 60 Cal. 4th  
26 1019, 1042 (2015).

1           22. The Temecula Residency Restrictions subject Registrants in Temecula to  
2 arbitrary, oppressive, and unreasonable governmental action in that they are blanket  
3 proscriptions applied to all affected Registrants without regard to the particularized  
4 circumstance of each individual or any rational relation to public safety. See *Taylor*, 60  
5 Cal. 4th at 1042. The irrationality of the Temecula Residency Restrictions is evidenced  
6 from the arbitrariness of their application to many foreseeable and everyday situations,  
7 including but not limited to:

- 8           a. Imposing a residency restriction of 2,000 feet which, according to  
9 California's Sex Offender Management Board ("CASOMB"), "is too great a  
10 distance to be able to see anything or anyone in a meaningful way." Indeed, in  
11 opposing residency restrictions outright, CASOMB concludes that "There is no  
12 rational basis that supports 2,000 feet as a distance that increases the safety of  
13 children."<sup>2</sup>
- 14           b. Prohibiting residency in proximity to child day care centers, schools, parks,  
15 and school bus stops, and thereby limiting Registrants' proximity to those  
16 locations primarily during times such as evenings and weekends when children  
17 are unlikely to be present at those locations.
- 18           c. Prohibiting residency in proximity to public transportation stops, which are  
19 not areas in which children generally congregate.
- 20           d. The Ordinance's application to Registrants whose offense involved adults,  
21 but who are nevertheless barred from residing in proximity to schools when their  
22 offense involved neither schools nor children, the class of individuals that the  
23 Ordinance supposedly seeks to protect.

24           23. The Temecula Residency Restrictions bear no rational relationship to any  
25 legitimate governmental purpose in that they contradict and hamper the objectives of  
26 \_\_\_\_\_

27 <sup>2</sup> CASOMB, HOMELESSNESS AMONG CALIFORNIA'S REGISTERED OFFENDERS – AN UPDATE (Aug.  
28 2011), at 25, available at [http://www.casomb.org/docs/Residence\\_Paper\\_Final.pdf](http://www.casomb.org/docs/Residence_Paper_Final.pdf).



1 Jessica's Law; fail to protect the public; and deprive Registrants of stable homes, family  
2 support, social and medical services, and other means necessary to live productive, law-  
3 abiding lives, as confirmed by numerous authorities, including but not limited to:

4 a. *In re Taylor*, 60 Cal. 4th 1019, 1042 (2015) (Blanket enforcement of  
5 residency restrictions "cannot survive rational basis scrutiny because it has  
6 hampered efforts to monitor, supervise, and rehabilitate [Registrants] in the  
7 interests of public safety, and as such, bears no rational relationship to advancing  
8 the state's legitimate goal of protecting children . . .").

9 b. *People v. Lynch*, 2 Cal. App. 5th 524, 528 (2016) ("[A]pplying the  
10 residency restriction to nonparolees would conflict with the purpose of  
11 registration. We believe section 290 registration laws aim at permitting local  
12 enforcement authorities to monitor these registrants in the community. Less  
13 restriction on housing sites for probationers permits this supervision function.  
14 Also, restricting access to housing opportunity disrupts the rehabilitation process  
15 for the broader group of men and women on probation; they should focus on  
16 treatment and rehabilitation instead of a limited residential market.").

17 c. *Doe v. City of Lynn*, 472 Mass. 521, 531 & n.15 (2015) (As a supervised  
18 and stable home has been recognized as a factor that minimizes the sex offender's  
19 risk of re-offense, th[e] disruption [imposed by residency restrictions] is  
20 inconsistent with the Legislature's goal of protecting the public." (citing *Taylor*,  
21 60 Cal. 4th 1019)).

22 d. CALIFORNIA SEX OFFENDER MANAGEMENT BOARD, HOMELESSNESS AMONG  
23 CALIFORNIA'S REGISTERED OFFENDERS – AN UPDATE (Aug. 2011), at 26  
24 ("CONCLUSIONS. Based on all that is known about sex offender recidivism and  
25 the nature of most sex offenses involving children, there is no evidence that  
26 residency restrictions are related to preventing or deterring sex crimes against  
27 children. To the contrary, the evidence strongly suggests that residency  
28



1 restrictions are likely to have the unintended effect of increasing the likelihood of  
2 sexual re-offense.”).<sup>3</sup>

3 e. Jill S. Levenson, Ph.D., *Hidden Challenges: Sex Offenders Legislated into*  
4 *Homelessness*, JOURNAL OF SOCIAL WORK, at 8 (June 22, 2016) (collecting  
5 scholarship that confirms the generally low risk of re-offense presented by  
6 Registrants, and concluding that “Residential restriction laws should be abolished  
7 in their current form” because “they contradict decades of research demonstrating  
8 that when criminal offenders return to communities they are much more likely to  
9 reintegrate successfully when they have meaningful employment, stable housing,  
10 and the support of law-abiding family and peers.”).<sup>4</sup>

11 24. Defendants have expended, are expending, and/or will expend public funds  
12 to enforce, prepare to enforce, and/or attempt to enforce the Temecula Residency  
13 Restrictions. Defendants have a mandatory duty to refrain from expending public funds  
14 to enforce, prepare to enforce, and/or attempt to enforce the Temecula Residency  
15 Restrictions because they are invalid and unconstitutional.

16 25. In addition, while the Temecula Residency Restrictions do not by their  
17 terms impose burdens on persons other than Registrants, the Temecula Residency  
18 Restrictions, as applied, may impose burdens upon family members of Registrants and  
19 upon others who reside with or wish to reside with Registrants, with the exceptions as  
20 previously defined.

21 26. To the extent that the Temecula Residency Restrictions impose burdens on  
22 Registrants who are not currently serving terms of parole, the Temecula Residency  
23 Restrictions are preempted by California state law and are therefore unconstitutional  
24 because California state law occupies the field of regulations that govern Registrants’  
25

26  
27 <sup>3</sup> [http://www.casomb.org/docs/Residence\\_Paper\\_Final.pdf](http://www.casomb.org/docs/Residence_Paper_Final.pdf).

28 <sup>4</sup> <http://jsw.sagepub.com/content/early/2016/06/21/1468017316654811.abstract>

1 daily lives, including the locations in which they may be present. *People v. Nguyen*, 222  
2 Cal. App. 4th 1168, 1180-81 (2014).

3 27. Defendants lack either a compelling or a substantial legitimate  
4 governmental interest in restraining the civil liberties of Registrants in the manner  
5 expressly provided by the Temecula Residency Restrictions.

6 28. In addition, the Temecula Residency Restrictions are not the least restrictive  
7 means to further any compelling or substantial governmental interest including, but not  
8 limited to, protecting children as the Temecula Residency Restrictions purport.

9 29. Further, the Temecula Residency Restrictions fail to pass constitutional  
10 muster because their restrictions are not sufficiently narrowly tailored to serve a  
11 legitimate government interest.

12 30. The Temecula Residency Restrictions are overly broad and burden  
13 substantially more constitutionally protected conduct than is necessary to further any  
14 legitimate governmental interest.

15 31. The Temecula Residency Restrictions are unconstitutionally vague in that  
16 they fail to permit persons of ordinary intelligence from knowing what the Ordinance  
17 requires, and likewise encourage arbitrary and discriminatory enforcement of the  
18 Ordinance. For example, the Ordinance imposes a Residential Exclusion Zone  
19 comprising “a two thousand foot radius” around any child day care center, park, or  
20 school, but does not indicate how that distance is to be measured, including whether the  
21 definition of “school” includes parking lots, administrative buildings, and other property  
22 that is not used for instructional purposes. *Cf. Doe v. Snyder*, 101 F. Supp. 3d 672, 682-  
23 84 (E.D. Mich. 2015); *Valenti v. Hartford City*, No. 15-cv-63, 2016 U.S. Dist. LEXIS  
24 165618 (N.D. Ind. Dec. 1, 2016).

25 32. Finally, the Temecula Residency Restrictions are an arbitrary, politically  
26 motivated act imposed by a local government in response to popular sentiments, based  
27 upon misinformation, which seeks retribution against Registrants who constitute a  
28

1 socially outcast minority. In addition, the Temecula Residency Restrictions also lend  
 2 themselves to discriminatory enforcement as well as the suppression of the constitutional  
 3 rights of Registrants as well as individuals who reside with them, including spouses and  
 4 children.

5 33. For the reasons stated above, the Temecula Residency Restrictions are in  
 6 violation of the Fourteenth Amendment to the United States Constitution, the Ex Post  
 7 Facto Clause of the United States Constitution, and are unconstitutionally vague and  
 8 overbroad.

9 **FIRST CLAIM**  
 10 **(State Law Preemption)**

11 34. Plaintiff re-alleges paragraphs 1 through 33 of this Complaint as though  
 12 fully set forth herein.

13 35. Article XI, Section 7 of the California Constitution provides that “[a]  
 14 county or city may make and enforce within its limits all local, police, sanitary, and  
 15 other ordinances and regulations not in conflict with general laws.” Accordingly, local  
 16 ordinances in conflict with, or preempted by, state law are invalid and unenforceable.

17 36. California state law contains a comprehensive scheme regulating the daily  
 18 lives of Registrants, including the areas in which they may be present. In enacting this  
 19 comprehensive scheme, the Legislature evinced an intention to fully occupy the field of  
 20 sex offender regulation. *People v. Nguyen*, 222 Cal. App. 4th 1168 (2014), *rev. denied*  
 21 2014 Cal. LEXIS 3030 (2014).

22 37. California Penal Code section 3003.5(c), also known as “Jessica’s Law,”  
 23 does not authorize local government to impose residency restrictions on individuals  
 24 other than parolees. *People v. Lynch*, 2 Cal. App. 5th 524, 528 (2016). Accordingly,  
 25 those provisions of the Temecula Residency Restrictions which apply to Registrants who  
 26 are not currently on parole are preempted and unconstitutional.

**SECOND CLAIM**

**(42 U.S.C. § 1983 – Fourteenth Amendment)**

38. Plaintiff re-alleges paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. By leaving in place, enforcing, and/or threatening to enforce the Temecula Residency Restrictions, Defendants deprive Plaintiff and other Registrants of rights guaranteed by the Fourteenth Amendment of the United States Constitution, including the Substantive Due Process and Equal Protection Clauses as well as the rights to family autonomy, privileges and immunities, and the right to travel. Defendants commit these unconstitutional acts under color of authority of law.

40. Continued enforcement or threats of enforcement of the Temecula Residency Restrictions violates the rights of Plaintiff and other Registrants which are protected by the Fourteenth Amendment of the United States Constitution. Therefore, the Temecula Residency Restrictions are void, both facially and as applied, and should be enjoined and their previous enforcement nullified. The injuries Plaintiff is suffering as a result of the actions of Defendants are severe, irreparable, and ongoing. Immediate and permanent injunctive relief is necessary to halt and prevent further occurrence of these ongoing constitutional deprivations and infliction of irreparable harm.

**THIRD CLAIM**

**(42 U.S.C. § 1983 – Ex Post Facto Clause)**

41. Plaintiff re-alleges paragraphs 1 through 40 of this Complaint as though fully set forth herein.

42. By leaving in place, enforcing, and/or threatening to enforce the Temecula Residency Restrictions, Defendants deprive Plaintiff and other Registrants of rights guaranteed by the Ex Post Facto Clause of the United States Constitution. Defendants commit these unconstitutional acts under color of authority of law.

1           43.     The Temecula Residency Restrictions apply to Registrants whose dates of  
2 conviction precede the effective date of the Ordinance. The Temecula Residency  
3 Restrictions also apply to Registrants who attempt to reside in Temecula after their dates  
4 of conviction.

5           44.     As evidenced by its express terms, the purpose of the Temecula Residency  
6 Restrictions is punitive. The Temecula Residency Restrictions are codified within a  
7 section of the Temecula Municipal Code to which criminal penalties apply. Application  
8 of the Temecula Residency Restrictions is conditioned upon the conviction of a criminal  
9 offense, and the Temecula Residency Restrictions do not apply to individuals who have  
10 not been convicted of a criminal offense. The Temecula Residency Restrictions are  
11 enforced by the San Bernardino County Sheriff's Department, which is authorized to cite  
12 and to arrest individuals who violate the Temecula Residency Restrictions pursuant to its  
13 general police power. Violations of the Temecula Residency Restrictions are  
14 misdemeanors and subject to the Temecula Municipal Code's general penalty and  
15 enforcement provisions applicable to all misdemeanor violations of the Temecula  
16 Municipal Code. Such penalties include fines and imprisonment, and can be levied for  
17 each day in which a Registrant violates the Temecula Residency Restrictions.  
18 Additionally, the Temecula Residency Restrictions impose affirmative disabilities and  
19 restraints on Registrants by severely limiting the areas of Temecula in which they can  
20 reside, work, and obtain needed medical, psychological and other necessary services,  
21 and by operating as a *de facto* banishment of Registrants from Temecula. Further, the  
22 Temecula Residency Restrictions severely stigmatize and shame Registrants, as well as  
23 severely limit various liberty interests of Registrants, which are conditions consistent  
24 with the intent to punish.

25           45.     Additionally, the effects of the Temecula Residency Restrictions are so  
26 overwhelmingly punitive as to negate any intent to enact or enforce the Temecula  
27 Residency Restrictions as non-punitive civil or regulatory measures. The Temecula  
28

1 Residency Restrictions are codified within a section of the Temecula Municipal Code to  
2 which criminal penalties apply. The Temecula Residency Restrictions are applied only  
3 to those who have been convicted of a criminal offense, but govern conduct that is not  
4 criminal and which in the vast majority of cases was not related to the offense that gave  
5 rise to the conviction. The Temecula Residency Restrictions are enforced by the San  
6 Bernardino County Sheriff's Department, which is authorized to cite and to arrest  
7 individuals who violate the Temecula Residency Restrictions pursuant to its general  
8 police power. Violations of the Temecula Residency Restrictions are misdemeanors and  
9 subject to the Temecula Municipal Code's general penalty and enforcement provisions  
10 applicable to all misdemeanor violations of the Temecula Municipal Code. Such  
11 penalties include fines and imprisonment, and can be levied for each day in which a  
12 Registrant violates the Temecula Residency Restrictions. Additionally, the Temecula  
13 Residency Restrictions impose affirmative disabilities and restraints on Registrants by  
14 severely limiting the areas of Temecula in which they can reside, work, and obtain  
15 needed medical, psychological and other services, and by operating as a *de facto*  
16 banishment of Registrants from Temecula. The Temecula Residency Restrictions also  
17 impose severe stigma and shame on affected Registrants, and severely limit various  
18 liberty interests of Registrants, among other traditional aims of punishment. Finally, the  
19 Temecula Residency Restrictions are overwhelmingly punitive in effect because they  
20 bear no rational connection to a non-punitive purpose. That is, the Temecula Residency  
21 Restrictions apply in a blanket fashion to all Registrants without regard to the actual  
22 risks they currently pose to public safety, and because the Temecula Residency  
23 Restrictions impose affirmative disabilities and restraints far in excess of whatever non-  
24 punitive purpose the Temecula Residency Restrictions purportedly serve.

25 46. Continued enforcement or threats of enforcement of the Temecula  
26 Residency Restrictions violates the rights of Plaintiff and other Registrants which are  
27 protected by the Ex Post Facto Clause of the United States Constitution. Therefore, the  
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1 Temecula Residency Restrictions are void, both facially and as applied, and should be  
2 enjoined and their previous enforcement nullified. The injuries Plaintiff is suffering as a  
3 result of the actions of Defendants are severe, irreparable, and ongoing. Immediate and  
4 permanent injunctive relief is necessary to halt and prevent further occurrence of these  
5 ongoing constitutional deprivations and infliction of irreparable harm.

#### 6 **FOURTH CLAIM**

##### 7 **(42 U.S.C. § 1983 – Void for Vagueness)**

8 47. Plaintiff re-alleges paragraphs 1 through 46 of this Complaint as though full  
9 set forth herein.

10 48. The Temecula Residency Restrictions are unconstitutionally vague in that  
11 they fail to permit persons of ordinary intelligence from knowing what the Ordinance  
12 requires, and likewise encourage arbitrary and discriminatory enforcement of the  
13 Ordinance.

14 49. By leaving in place, enforcing, and/or threatening to enforce the Temecula  
15 Residency Restrictions, Defendants unconstitutionally enforce an ordinance that  
16 deprives Plaintiff and other Registrants of rights which are protected by the Void for  
17 Vagueness Doctrine extended into the Due Process Clauses of the Fourteenth  
18 Amendment of the United States Constitution, as well as the First Amendment to the  
19 United States Constitution. Therefore, the Temecula Residency Restrictions are void,  
20 both facially and as applied, and should be enjoined and their previous enforcement  
21 nullified. The injuries Plaintiff is suffering as a result of the actions of Defendants are  
22 severe, irreparable, and ongoing. Immediate and permanent injunctive relief is  
23 necessary to halt and prevent further occurrence of these ongoing constitutional  
24 deprivations and infliction of irreparable harm.

25 ///

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27 ///



**FIFTH CLAIM**

**(28 U.S.C. §2201 – Declaratory Relief)**

50. Plaintiff re-alleges paragraphs 1 through 49 of this Complaint as though fully set forth herein.

51. An actual controversy exists between Plaintiff and Defendants regarding the constitutionality and enforceability of the Temecula Residency Restrictions.

52. Plaintiff is entitled to a declaration of rights with regard to the Temecula Residency Restrictions.

**PRAYER FOR RELIEF**

Because of the actions alleged above, Plaintiff seeks judgment against Defendants as follows:

a. That Defendants be enjoined in perpetuity from enforcing Title 9, Chapter 9.60.030 of the Temecula Municipal Code;

b. That Title 9, Chapter 9.60.030 of the Temecula Municipal Code be declared null and void as unconstitutionally vague and in violation of the Fourteenth Amendment to the United States Constitution, Article I, Section 7 of the California Constitution, and the Ex Post Facto Clause of the United States Constitution;

c. That Plaintiff recovers from the Defendants, under 42 U.S.C. Section 1988, all of Plaintiff's reasonable attorney's fees, costs and expenses of this litigation; and

d. That Plaintiff recovers such relief as the Court deems just and proper.

Dated: March 3, 2017

LAW OFFICE OF JANICE M. BELLUCCI

By: /s/ Janice M. Bellucci

Janice M. Bellucci  
Attorney for Plaintiff